IN THE HON'BLE HIGH COURT OF JUDICATURE OF BOMBAY AT PORVORIM, GOA

P.I.L. W.P. No. 2344/2024 [F]

THE GOA FOUNDATION ...**Petitioner**

Vs

STATE OF GOA & ORS. ...**Respondents**

ADDITIONAL AFFIDAVIT OF THE PETITIONER

I, Dr. Claude Alvares, aged 76 years, Secretary of the Petitioner No. 1 abovenamed, do hereby solemnly affirm and state as under:

1. I say that this affidavit is being filed for the limited purpose of bringing on record the file Notings of the T.C.P. Department pertaining to S. 39(A) of the Goa T.C.P. Act, 1974; and the Statement of Objects and Reasons regarding S. 39(A) (*as contained in The Goa Town and Country Planning (Amendment) Bill, 2024 tabled in the Assembly*). The file notings were recently received by me from a fellow citizen who obtained them under the RTI Act. The SOR document was inadvertently not included in the PIL. Both the documents are enclosed herewith as **Annexure A Colly**.

2. I state that the contents of paragraph 1 above are true to my own knowledge and the documents that I have annexed I believe to be true. No part of it is false and nothing material has been concealed therefrom, and the documents annexed are true copies of their respective originals.

Solemnly affirmed at Mapusa, Goa,
this the 30th day of September 2024.

Deponent

"Information" made available under
Right to Information Act 2005
issued to Mr Swapnesh Sherlekar

08-08-2024
Public Information Officer
Town and Country Planning Dept. (HQ)
Govt of Goa, Panaji, Goa

TOWN & COUNTRY PLANNING DEPT.,

Sub: Amendment to the Goa Town and Country Planning Act, 1974

This has reference to the directions of Hon'ble Minster for TCP, received vide Note dated 03/01/2024, (Copy placed at C/2), for deleting/ omitting of section 16-B of the Goa Town and Country Planning Act, 1974.

He further stated that, since the matter is in court for more than three and half years, without any outcome, because of which there are various matters on hand that need to be addressed. In view of representation received from the people.

It is essential that bill for omission shall be moved accordingly.

It is submitted that, the section 16-B of the Goa Town and Country Planning Act, 1974 was inserted in year 2018 vide Notification No. 7/5/2018-LA, published in the Official Gazette, (Extra Ordinary), Series I No. 22 dated 30/08/2018.

The rule for the same was also published in the Official Gazette, (Extra Ordinary No. 2), Series I No. 26 dated 01/10/2018. However, the said provision was challenged before the High Court of Bombay at Goa and in the said matter, an interim Order was passed whereby final approval could not be granted, the said petition is pending in the High Court of Bombay at Goa for more than 4 years and consequently, the approvals are also stayed.

It is submitted that, the decision was also taken in 193rd meeting of TCP Board held on 14/12/2023 regarding powers to be given to the Government to amend and modify the Regional Plan – 2021. The discussion were also held on the manner in which the amendments and modification to the Regional Plan shall be carried out.

While discussing on the issue, stress was given on the major requirement for housing, commercial and other infrastructure projects in the State of Goa. Various initiatives were earlier taken from time to time to cater to such requirements. One such initiative was the amendment carried out to the Goa Town and Country Planning Act in terms of Section 16(B). By way of the said provision, various fundamental and significant changes were recommended and provisionally approved by the Town and Country Planning Board. However, the said provision was challenged before the High Court of Bombay at Goa and in the said matter, an interim order was passed whereby final approvals could not be granted. Said Petition is pending in the High Court of Bombay at Goa for more than 4 years and consequently, the approvals are also stayed.

N/2

The Government had thereafter also incorporated Section 17(2) by way of an amendment to the TCP Act, 1974, which is limited to correcting inadvertent errors and incoherent zoning proposals.

X Irrespective of the above amendments, there is no provision under the law, which is operational at this point of time to effectively modify or amend the existing Regional Plan or Outline Development Plan to factor in the housing, commercial and infrastructure requirements of the State. Such a provision required to be made shall be different in scheme and scope from Sec. 16(B) or Sec. 17(2).

There are various policies adopted by the State from time to time in relation to development of the State. A comprehensive Regional Plan/ODP is a long process and the Government needs to have a power to modify the said Regional Plan/ODP by following necessary process. There is a need to incorporate an amendment to the existing Act, to empower the Government to modify the Regional Plans/ODPs by following a comprehensive process, as neither of provisions under Sec. 16(B) or Sec. 17(2) of the TCP Act addresses significant requirement of power to the Government to amend the Regional Plan in keeping with the development policy of the State. The new provision shall additionally seek to cater to Outline Development Plans as well.

The Board had also discussed on the manner and the extent to which such alteration/modification to the Regional Plan shall be carried out and it is decided that the alteration and modification to be carried out shall not completely alter overall character of the existing Regional Plan and/ or the Outline Development Plan. It is also decided that an Expert Committee be appointed to involve in the process, which shall also have consultation with the stakeholders.

As regards to procedure, it was decided that the provision shall include inviting objections from the general public and the Expert Committee shall after considering the objections, make its recommendations to the Board and the Board shall be empowered to make recommendation to the Government for its decision.

It was further suggested that the Expert Committee shall preferably comprise of the following members:

(1) The Senior Town Planner

(2) Two members of the Town and Country Planning Board

(3) One representative of Indian Institute of Town Planners (ITPI)

(4) One member of the Environment Department

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(5) One representative of the Goa Chamber of Commerce

(6) One member of the CREDAI

(7) One person having special knowledge of, and practical experience in matters relating to Town and Country Planning, architecture, engineering, transport, industries, commerce, agriculture or geology to be nominated by the Government.

(8) One public spirited person who is involved in environmental causes to be nominated by the Government.

A Note bearing No. Misc/TCP/1435/2023/1942 dtd. 21/12/2023 is also received from Hon'ble Minister for TCP, wherein reference is made to the discussion as held in this regard by the Board and it is decided that an Bill be put up to the Government on top priority and the matter already stands discussed and deliberated with the Hon'ble Chief Minister.

As directed by the Government vide Note dtd. 03/01/2024 and dated 21/12/2023, a draft bill is therefore placed in the file for approval of Government and thereafter for vetting by Law Department.

Submitted.

Law Department (Legal)
Inward No. 109/LA
Date 11/01/24

Ref. No. 2/1/TCP/GTCBACT/2024/54
Town & Country Planning Dept
Government of Goa
2nd Floor, Dempo Tower,
Patto Plaza, Panaji, Goa
Date: 8/1/24

O/o. Chief Secretary
Entry No.: 190/F
Date: 8/1/2024

Office of the TCP Minister
Govt. of Goa
Secretariat, Porvorim-Goa
Inward No.: 28
Date: 9/1/24

08/01/24

Senior Town Planner (HQ)/
Chief Town Planner (Land Use)

8/1/2024

Chief Town Planner (Planning/Admn.)

May be shown to FCM also

10/1/24

Chief Secretary

10/1/24

Hon'ble Minister for TCP

11/01/2024

Law Department

Shri Sudhir
/Vasu.

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Govt of Goa, Panaji, Goa

4/N

Law Department (Legal Affairs

Prepage notings may please be seen.
The draft Bill as placed at pg 26/c is touched in pencil, may kindly be seen for favour of approval.

12/01/2024

Suptd (L/D) - vacant

V-S (L-A) - 15/01/2024

J.S. (Law) - III The proposal of the Department is to omit section 16B of the Act and insert a new section 39A. Both, these sections speaks of change of zone in the Regional Plan. As earlier section 16 B was challenged before the Hon'ble High Court, the Department is requested to study the grounds for challenge in the said writ Petition (refer page 1/N) as similar section 39 A is proposed in the present Bill, so as to avoid further challenge to the proposed section on similar grounds.

Moreover, the Department has not prepared the Bill considering the aspects as pointed out by the Department as at 'X' on page 2/N.

May please see.

15/01/2024

L.S. 15/1/24

S.S. Revetkul 15/1/24

C.T.P. 16/1/24

CTP (L.U)

Secretary Law
Inward No 284/F
Date 15/1/24

Inward No. 205
Town & Country Planning Dept
Government of Goa
2nd Floor, Dempo Tower,
Patto Plaza, Panaji, Goa
Date: 16/01/2024.

Dy. Chief Secretary
422/F
16/1/2024

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08-08-2024
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Town and Country Planning Dept. (HQ)
Govt of Goa, Panaji, Goa

TOWN & COUNTRY PLANNING DEPT.

Sub: Amendment to the Goa Town and Country Planning Act, 1974

Proposal to omit Section 16-B and insert the new Section 39(A) in Goa Town & Country Planning Act, 1974, as per-pages N/1 to N/3, has been approved by the Government. The Bill has been vetted by the Law Department with certain comments.

With reference to the same, it is submitted that under the Goa Town & Country Planning Act, 1974, there is no provision which gives Government power to amend the Regional Plan/ODPs to cater to the requirement of various infrastructure, tourism and housing related requirements.

It is noted that in pursuance to various Central/State Policies, there are several public infrastructure projects/ proposals in the pipeline to be taken up within the State of Goa.

Thus, Goa is developing in a brisk pace and therefore there is an immediate need for the Government to have a power to amend the plans and not wait for the preparation of new holistic Regional Plan for entire State or ODPs, which is very long drawn, elaborate and time-consuming process.

Town and Country Planning Department encounters situations wherein region/ area specific zoning change proposals are received and the same cannot await the final Regional Plan or Outline Development Plan.

Present proposal and the process is different from Section 16-B. The Section16-B eminates from individual application and does not confer any suo motto powers to the Government, which is an immediate requirement.

The Department has also ensured that the present amendment does not lead to material change in the character of the plan, which is distinct from 16-B. The two provisions therefore operates from different spheres.

We may therefore move the proposal before the Council of Ministers for introduction of Bill in the Legislative Assembly.

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Town and Country Planning Dept. (HQ)
Govt of Goa, Panaji, Goa

6/N

A fair copy of the Bill and Note for Cabinet are placed in the file.

Submitted.

17/01/24
Senior Town Planner (HQ)/
Chief Town Planner (Land Use)

17/1/2024
Chief Town Planner (Planning/Admn.)

17/1/24
Chief Secretary

As discussed with CM.

17/1/24
Hon'ble Minister for TCP

Hon'ble Chief Minister

18/1/24

CTP(Admn)

18/1/24

COT(L.U.)

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Govt of Goa, Panaji, Goa

7/N

TOWN & COUNTRY PLANNING DEPT.,

Note pertaining to introduction of bill and 25 copies of bill are placed in the file for placing the same before the Council of Ministers in the Legislative Assembly.

The same is approved by the Hon'ble Minister for TCP and Hon'ble Chief Minister.

A letter addressed to Under Secretary- II GAD, placed in the file for Approval.

Submitted.

19/01/2024

Investigator

19/1/2024

Chief Town Planner (Planning/Admn.)

"Information" made available under
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08-08-2024
Public Information Officer – 4
Town and Country Planning Dept. (HQ)
Govt of Goa, Panaji, Goa

8/N

Letter addressed to The Director, Government Printing Press, Panaji-Goa., for printing of 100 copies of the bill which will be placed in the ensuing assembly session 2024 and same has been placed at RHS for Approval & Signature of CTP (Admin).

Submitted.

29/01/2024
Investigator

Chief Town Planner (Land Use)

29/1/2024
Chief Town Planner (Admin)

Letter forwarding with 100 copies of "Amendment to The Goa Town & Country Planning (Amendment) Bill, 2024" is addressed to the Secretary, Goa legislative Secretariat along with letter of the Hon'ble minister for Town & Country Planning seeking permission to lay the said amendment on the table of the house and same has been placed at RHS for approval & signature of CTP(Admin) please.

31/01/2024
Investigator

31/01/24
Chief Town Planner (Land Use)

"Information" made available under
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issued to Mr Swapnesh Sherlekar

08-08-2024
Public Information Officer – 4
Town and Country Planning Dept. (HQ)
Govt of Goa, Panaji, Goa

31/1/24
Chief Town Planner (Admin/Planning)

9/N

Letter addressed to The Director, Government Printing Press, Panaji-Goa., for printing of 90 copies of the bill (10 parchment & 80 As passed) which has been passed by the Legislative Assembly of the State of Goa on 7th February 2024 and same has been placed at RHS for Approval & Signature of CTP (Admin).

Submitted.

07/02/2024
Investigator

Chief Town Planner (Land Use)

7/2/2024
Chief Town Planner (Admin)

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Town and Country Planning Dept. (HQ)
Govt of Goa, Panaji, Goa

LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

The Goa Town and Country Planning (Amendment) Bill, 2024

(Bill No. 7 of 2024)

(To be introduced in the Legislative Assembly of the State of Goa)

GOA LEGISLATURE SECRETARIAT,
ASSEMBLY HALL, PORVORIM, GOA
FEBRUARY, 2024

The Goa Town and Country Planning (Amendment) Bill, 2024

(Bill No. 7 of 2024)

A

Bill

f*urther to amend the Goa Town and Country Planning Act, 1974 (Act 21 of 1975).*

BE it enacted by the Legislative Assembly of Goa in the Seventy-fifth Year of the Republic of India as follows:-

1. **Short title and commencement.**— (1) This Act may be called the Goa Town and Country Planning (Amendment) Act, 2024.

(2) It shall come into force at once, except section 2 which shall be deemed to have come into force on the 3rd day of October, 2018.

2. **Omission of section 16B.**— In the Goa Town and Country Planning Act, 1974 (Act 21 of 1975) (hereinafter referred to as the "principal Act"), section 16B shall be omitted.

3. **Insertion of new section 39A.**— After section 39 of the principal Act, the following section shall be inserted, namely:—

"39A. Change of Zone.— (1) Notwithstanding anything contained in this Act, the Chief Town Planner (Planning) upon direction of the Government or on receipt of an application in this regards and with approval of the Board, may, from time to time, alter or modify the Regional Plan and/ or the Outline Development Plan to

the extent as specified in sub-section (2) for carrying out change of zone of any land therein, in such manner as prescribed, after giving notice of 30 days inviting suggestions from the public, provided the change of zone shall not be in respect if any eco sensitive land as may be prescribed.

(2) The alteration or modification carried out under sub-section (1) shall not alter the overall character of the existing Regional Plan and/or the Outline Development Plan.".

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to omit section 16B of the Goa Town and Country Planning Act, 1974 (Act 21 of 1975) (hereinafter referred to as the "said Act") so as to do away with the provisions of said section 16B.

The Bill also seeks to insert new section 39A in the said Act so as to make provision to alter/ modify the Regional Plan and/or the Outline Development Plan for carrying out change of zone of any land therein.

This Bill seeks to achieve the above objects.

FINANCIAL MEMORANDUM

No financial implications are involved in this Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill empowers the Government to frame rules to specify the manner to alter/modify the Regional Plan and/or the Outline Development Plan for carrying out change of zone of any land therein provided the change of zone shall not be in respect if any eco sensitive land as may be prescribed.

This delegations are of normal character.

Porvorim–Goa
2nd February, 2024

(Vishwajit Rane)
Hon'ble Minister for TCP

Assembly Hall,
Porvorim–Goa
2nd February, 2024

(Namrata Ulman)
Secretary to the Legislative
Assembly of Goa.